

DOCKET NO.: MSE-20309/150645.1

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

**In Re Application of:**

Sohail Baid Mohammed et al.

**Confirmation No.:** 8166

**Application No.:** 09/817,167

**Group Art Unit:** 3621

**Filing Date:** March 26, 2001

**Examiner:** Elisca, Pierre E.

**For:** Supervised License Acquisition In A Digital Rights Management System On A Computing Device

DATE OF DEPOSIT: May 17, 2005

I HEREBY CERTIFY THAT THIS PAPER IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE AS FIRST CLASS MAIL, POSTAGE PREPAID, ON THE DATE INDICATED ABOVE AND IS ADDRESSED TO THE COMMISSIONER FOR PATENTS, P.O. BOX 1450, ALEXANDRIA, VA 22313-1450.

TYPED NAME: Steven H. Meyer  
REGISTRATION NO.: 37,189

MS Appeal Brief - Patent  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**APPEAL BRIEF TRANSMITTAL  
PURSUANT TO 37 CFR § 41.37**

Transmitted herewith is the APPEAL BRIEF in this application with respect to the Notice of Appeal received by The United States Patent and Trademark Office on **March 21, 2005**.

- ☐ Applicant(s) has previously claimed small entity status under 37 CFR § 1.27 .
- ☐ Applicant(s) by its/their undersigned attorney, claims small entity status under 37 CFR § 1.27 as:
- ☐ an Independent Inventor
  - ☐ a Small Business Concern
  - ☐ a Nonprofit Organization.

DOCKET NO.: MSFT-0309/150645.1

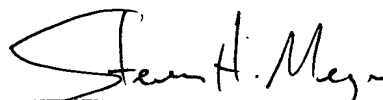
PATENT

- ☐ Petition is hereby made under 37 CFR § 1.136(a) (fees: 37 CFR § 1.17(a)(1)-(4) to extend the time for response to the Office Action of \_\_\_\_\_ to and through \_\_\_\_\_ comprising an extension of the shortened statutory period of \_\_\_\_\_ month(s).

|  | SMALL ENTITY |       | NOT SMALL ENTITY |          |
|--|--------------|-------|------------------|----------|
|  | RATE         | FEE   | RATE             | FEE      |
| <input checked="" type="checkbox"/> APPEAL BRIEF FEE         | \$250        | \$    | \$500            | \$500.00 |
| <input type="checkbox"/> ONE MONTH EXTENSION OF TIME         | \$60         | \$    | \$120            | \$       |
| <input type="checkbox"/> TWO MONTH EXTENSION OF TIME         | \$225        | \$    | \$450            | \$       |
| <input type="checkbox"/> THREE MONTH EXTENSION OF TIME       | \$510        | \$    | \$1020           | \$       |
| <input type="checkbox"/> FOUR MONTH EXTENSION OF TIME        | \$795        | \$    | \$1590           | \$       |
| <input type="checkbox"/> FIVE MONTH EXTENSION OF TIME        | \$1080       | \$    | \$2160           | \$       |
| <input type="checkbox"/> LESS ANY EXTENSION FEE ALREADY PAID | minus        | (\$ ) | minus            | (\$ )    |
| TOTAL FEE DUE  |              | \$0   |                  | \$500.00 |

- ☒ The Commissioner is hereby requested to grant an extension of time for the appropriate length of time, should one be necessary, in connection with this filing or any future filing submitted to the U.S. Patent and Trademark Office in the above-identified application during the pendency of this application. The Commissioner is further authorized to charge any fees related to any such extension of time to Deposit Account 23-3050. This sheet is provided in duplicate.
- ☐ A check in the amount of \$ \_\_\_\_\_.00 is attached. Please charge any deficiency or credit any overpayment to Deposit Account No. 23-3050.
- ☐ Please charge Deposit Account No. 23-3050 in the amount of \$ \_\_\_\_\_.00. This sheet is attached in duplicate.

Date: May 17, 2005



Steven H. Meyer  
Registration No. 37,189

Woodcock Washburn LLP  
One Liberty Place - 46th Floor  
Philadelphia PA 19103  
Telephone: (215) 568-3100  
Facsimile: (215) 568-3439

© 2005 WW



DOCKET NO.: MSPAT-0309 / 150645.1

PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re application of:

Mohammed et al.

Serial No.: 09/817,167

Filed: March 26, 2001

For: Supervised License  
Acquisition In A Digital Rights  
Management System On A  
Computing Device

Group Art Unit: 3621

Examiner: Elisca

I, Steven H. Meyer, Registration No. 37,189 certify that this correspondence is being deposited with the U.S. Postal Service as First Class mail in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231 on May 17, 2005

Registration No: 37,189

**APPELLANTS' BRIEF FILED UNDER 37 C.F.R. § 41.37**

**APPELLANTS' BRIEF**

Pursuant to the Notice of Appeal filed on March 18, 2005, set forth below is Appellants' Brief. The Brief is being filed within the two-month period set forth in 37 C.F.R. § 41.37(a)(1).

05/20/2005 MAHME1 00000008 09817167

01 FC:1402

500.00 DP

**REAL PARTY IN INTEREST**

The real party in interest is Microsoft Corporation by virtue of an Assignment from Appellants recorded on January 14, 2002 at Reel 012486, Frame 0780.

**RELATED APPEALS AND INTERFERENCES**

No related appeals and interferences are known by Appellants.

**STATUS OF CLAIMS**

Claims 1-3, 5-14, 16-21, 23-27, 29-38, 40-45, 47-51, 53-60, 62, 63, 65-67, and 69-72 are pending. Claims 4, 15, 22, 28, 39, 46, 52, 61, 64, and 68 were canceled.

All of such claims 1-3, 5-14, 16-21, 23-27, 29-38, 40-45, 47-51, 53-60, 62, 63, 65-67, and 69-72 were finally rejected under 35 U.S.C. §§ 102(e) in an Office Action mailed December 20, 2004. Appellants submit claims 1-3, 5-14, 16-20, 25-27, 29-38, 40-44, 49-51, 53-60, 62, 67, and 69-72 as being at issue in this Appeal, and correspondingly do not submit claims 21, 23, 24, 45, 47, 48, 63, 65, and 66. A copy of the claims involved in this Appeal is contained in an Appendix hereto.

**STATUS OF AMENDMENTS**

No amendments to the claims have been proposed by Appellants subsequent to final rejection.

**SUMMARY OF CLAIMED SUBJECT MATTER**

Digital rights management and enforcement is highly desirable in connection with digital content distributed to users, where each user renders or 'plays' the digital content with the aid of an appropriate rendering device such as a media player on a personal computer or the like. Typically, a content owner wishes to distribute such digital content to a user or recipient in exchange for a license fee or some other consideration. Such content owner, given the choice, would likely wish to restrict what the user can do with such distributed digital content. For example, the content owner would like to restrict the user from copying and re-distributing such content to a second user, at least in a manner that denies the content owner a license fee from such second user. In addition, the content owner may wish to provide the user with the flexibility to purchase different types of use licenses at different license fees, while at the same time holding the user to the terms of whatever type of license is in fact purchased (Page 2, lines 5-28).

However, after distribution has occurred, such content owner has very little if any control over the digital content. In particular, the user may typically make an exact digital copy of such digital content and widely re-distribute same. Thus, an

enforcement architecture and method are provided that allow the controlled rendering or playing of arbitrary forms of digital content, so that the digital content will only be rendered as specified by the content owner in a corresponding digital license, even though the digital content is to be rendered on a computing device which is not under the control of the content owner. In particular, a trusted component runs on the computing device, where the trusted component enforces the rights of the content owner on such computing device in connection with a piece of digital content, where such rights are specified within the corresponding digital content, even against attempts by the user of such computing device to access such digital content in ways not permitted by the content owner (page 2, line 29 – page 3, line 30).

In the course of attempting to render a piece of digital content 12 by way of a rendering application 34 (such as a music player, a word processor, a video player, and the like), a license evaluator 36 or the like searches for an available corresponding digital license 16 that would enable such rendering. If not found, a DRM (digital rights management) system 32 of which the license evaluator 36 is a constituent may initiate a license acquisition process. Note, though, that the rendering application 34 is presumably 'in view' to a user, while the DRM system 32 is not likewise in view. Accordingly, in the present invention, the 'in-view' rendering application 34 presents the license acquisition process to the user within the context of such rendering application 34. Thus, the user is not confused or upset at the sudden appearance of a web page in a browser, a view as presented by the DRM system 32, or the like. Instead, the user is

presented with an overall seamless user experience (page 58, line 19 – page 59, line 9).

Thus, and as shown in Fig. 13, in the course of acquiring the license 16 and in the course of interaction between the user and a license server 24 by way of web pages or the like, such web pages are presented to the user in a browser 62 initiated by the rendering application 34, under the control of such rendering application 34, and viewed within the context of the rendering application 34. That is, such web pages are viewed in a browser 62 hosted by the rendering application 34. Accordingly, the hosting rendering application 34 can control the browser 62 and be made aware of the actions performed in connection with the browser 62. In addition, and significantly, presenting the browser 62 to the user within the context of the hosting rendering application 34 is less jarring to the user, especially when the license acquisition process is automated and the user may not have been expecting to see the browser 62 (page 59, lines 10-22).

In particular, and as set forth in connection with Figs. 14A and 14B, if a license 16 is not found, the DRM system 32 notifies the rendering application 34 (steps 1407, 1411) and provides the rendering application 34 with information necessary to acquire the necessary license (step 1413). Thereafter, the rendering application 34 hosts a browser 62 (step 1415), causes the browser 62 to navigate to the license server 24 (step 1417), and allows the user to communicate with the license server 24 by way of the hosted browser 62 to obtain the license 16 (step 1419). Once the user and

license server 24 have agreed to the terms of the license 16, such license 16 is delivered back to and received by the computing device 14 (step 1421). The DRM system 32 then notifies the rendering application 34 that the license 16 has been received or the rendering application determined from the DRM system 32 that the license 16 has been received (step 1425), and the rendering application 34 may then shut down the hosted browser 62 (step 1427) (page 59, line 23 – page 61, line 2).

To summarize, then, the present invention is generally embodied as a rendering application 34 and a DRM system 32 on a computing device 14, where, in the event a license 16 to render content 12 is not available as determined by the DRM system 32, the rendering application 34 hosts a browser 62 and causes the browser 62 to navigate to a license server 24 where a user may interact with same to obtain a license 16. With the rendering application 34 hosting the browser 62, such browser 62 is initiated by the rendering application 34, under the control of such rendering application 34, and viewed within the context of the rendering application 34, as such browser 62 is employed by the user to access and interface with the license server 24. Thus, and significantly, the browser 62 is incorporated into the look, feel, interface, and experience of the rendering application 34 and the user is thus not disturbed or disoriented by the sudden appearance of a strange and un-commanded browser 62. Also, with the rendering application 34 hosting the browser 62, the hosting rendering application 34 can shut down such hosted browser 62 upon receiving the license 16,



and again the user is thus not disturbed or disoriented by the sudden disappearance of the browser 62.

Independent claim 1 as amended recites a method of acquiring a digital license that authorizes rendering of corresponding digital content. The license is to be acquired upon a rendering application on a computing device requesting a digital rights management (DRM) system on the computing device for authorization for such rendering based on such license, and upon the DRM system notifying the rendering application that such license is not available on the computing device. In the method, the rendering application hosts a browser that is initiated by the rendering application, under the control of such rendering application, and viewed within the context of the rendering application, and causes the browser to navigate to a license server. A user is then allowed to communicate with the license server by way of the hosted browser to acquire the license. The license is received from the license server; and the hosting rendering application shuts down the hosted browser upon receiving the license.

Independent claim 25 as amended recites the same subject matter as amended claim 1, although in the form of a computing device, and independent claim 49 as amended recites the same subject matter as amended claim 1, although with slightly different claim language.

Independent claim 14 as amended also recites a method of acquiring a digital license that authorizes rendering of corresponding digital content. Here too, the license is to be acquired upon a rendering application on a computing device requesting

a digital rights management (DRM) system on the computing device for authorization for such rendering based on such license. In the method, the DRM system attempts to silently acquire the license from a license server without the intervention of a user, and if the attempt to silently acquire the license fails, the DRM system allows a user to attempt to acquire the license from a license server by way of a browser hosted by the rendering application in the manner set forth in amended claim 1.

Independent claim 38 as amended recites the same subject matter as amended claim 14, although in the form of a computing device, independent claim 60 as amended recites the same subject matter as amended claim 14, although with slightly different claim language, and independent claim 67 as amended recites the same subject matter as amended claim 14, although in the form of a computer-readable medium.

### **ISSUE**

Did the Examiner commit error in rejecting claims 1-3, 5-14, 16-20, 25-27, 29-38, 40-44, 49-51, 53-60, 62, 67, and 69-72 as being anticipated under 35 U.S.C. §102(e) by U.S. Patent No. 6,574,609 (hereinafter "Downs")?

### **GROUPING OF CLAIMS**

The Examiner has treated together the claims pending in the present application and at issue in the present appeal. For purposes of the present appeal, Appellants

respectfully submit that all of such claims stand or fall together. Hence, Appellants submit all of the claims as a single group for purposes of the present appeal.

Appellants also submit that independent claim 1 is representative of the single group.

### **ARGUMENT**

**The Examiner's rejection of the claims as being anticipated by Downs is improper.**

#### **A. The Examiner's Rejection**

In the final Office Action mailed December 20, 2004, the Examiner maintains the rejection of claims 1-3, 5-14, 16-21, 23-27, 29-38, 40-45, 47-51, 53-60, 62, 63, 65-67, and 69-72 under 35 U.S.C. § 102(e) as being anticipated by Downs. In particular, and turning to the previous Office Action mailed July 8, 2004, in making the rejection under section 102(e), the Examiner with regard to the independent claims and several of the dependent claims essentially recites claim 1 along with references to portions of Downs that purportedly show corresponding elements and/or limitations. Principally, the Examiner in rejecting the claims relies on that which is disclosed in Downs at column 7, lines 22-64 and column 66, lines 22-67.

Tellingly, and with regard to the requirement of "a rendering application that hosts a browser that is initiated by the rendering application, under the control of such rendering application, and viewed within the context of the rendering application" as set forth in the independent claims, the Examiner specifically notes at page 3 of such

Office Action that the Downs content host site 111 is “capable of browsing or viewing context of the content data or application” (sic). In addition, in the final Office Action, and at pages 6 and 7 thereof, the Examiner responds to Appellant’s arguments regarding the prior Office Action by asserting that “with the proper licensing authorization the user is capable of browsing or navigating . . . “.

**B. Prior Art**

**1. Downs**

Downs discloses a rights management system for managing content data and associated metadata. In the system, the content data and the associated metadata are generated, the content data is transferred to a content host, and the metadata and usage condition data for the associated content are transferred to an electronic store. The metadata and/or the usage condition data are altered in order to form promotional data, and the promotional data is transferred from the electronic store to a customer’s system.

In pertinent part, in Downs, content is encrypted according to a first encryption key and the first encryption is in turn encrypted according to a second encryption key. As disclosed at column 7, lines 22-64 and at column 66, lines 22-67, a user in possession of the encrypted content can obtain the encrypted first encryption key from a clearinghouse that issues same in the form of a license or the like, where the

encrypted first encryption key is decryptable by the user and thus the encrypted content is likewise decryptable by the user.

**C. Standard of Review under 35 U.S.C. § 102(e)**

The standard for anticipation under 102[(e)] is one of strict identity. An anticipation rejection requires a showing that each limitation of a claim be found in a single reference, Atlas Powder Co. v. E.I. DuPont de Nemours & Co., 224 U.S.P.Q. 409, 411 (Fed. Cir. 1984). Section 102[(e)] requires that each and every element as set forth in the claim be found, either expressly or inherently described, in a single prior art reference. Constant v. Advanced Micro-Devices, Inc., 848 F.2d 1560, 1570, 7 U.S.P.Q.2d 1057 (Fed. Cir.), cert. denied, 488 U.S. 892 (1988).

**D. Arguments - The Examiner Has Failed to Establish the Required Prima Facie Case of Anticipation Under 35 U.S.C. § 102(e)**

- 1. Downs as cited by the Examiner does not disclose a rendering application that hosts a browser that is initiated by the rendering application, under the control of such rendering application, and viewed within the context of the rendering application, and causes the browser to navigate to a license server, as is required by the claims of the single group.**

The single group including independent claim 1 requires that a rendering application hosts a browser that is initiated by the rendering application, under the

control of such rendering application, and viewed within the context of the rendering application, and causes the browser to navigate to a license server. In particular, a license is to be acquired upon the rendering application requesting a digital rights management (DRM) system for authorization to render a piece of content and the DRM system notifying the rendering application that such license is not present. With the browser as hosted by the rendering application and viewed within the context of the rendering application, the user is allowed to communicate with a license server by way of the hosted browser to acquire the license. After the license is received from the license server; the hosting rendering application shuts down the hosted browser.

Again, with the rendering application hosting the browser, such browser is incorporated into the look, feel, interface, and experience of the rendering application and the user is thus not disturbed or disoriented by the sudden appearance of a strange and un-commanded browser. Likewise, the hosting rendering application can shut down such hosted browser upon receiving the license, and again the user is thus not disturbed or disoriented by the sudden disappearance of the browser.

In the Final Office Action, the Examiner does not disagree that Downs discloses a rights management system whereby content is encrypted according to a first encryption key and the first encryption is in turn encrypted according to a second encryption key. As disclosed at column 7, lines 22-64 and at column 66, lines 22-67, which the Examiner principally cites to, a user in possession of the encrypted content can obtain the encrypted first encryption key from a clearinghouse that issues same in

the form of a license or the like, where the encrypted first encryption key is decryptable by the user and thus the encrypted content is likewise decryptable by the user.

However, and quite simply, Appellants respectfully submit that no specific disclosure in such column 7, lines 22-64, column 66, lines 22-67, or elsewhere in Downs sets forth a Downs rendering application that hosts a browser to allow the user to interface with a license server and causes the browser to navigate to a license server, as is required by the claims of the single group. In fact, a close reading of column 66 in particular reveals that the Downs rendering application navigates to a content server to download content, but only if a proffered license, which presumably must already be present on the Downs computing device, is valid.

Column 7, lines 22-64 is reproduced as follows:

Rights management in the Secure Digital Content Electronic Distribution System is implemented through a set of functions distributed among the operating components of the system. Its primary functions include: licensing authorization and control so that content is unlocked only by authorized intermediate or End-User(s) that have secured a license; and control and enforcement of content usage according to the conditions of purchase or license, such as permitted number of copies, number of plays, and the time interval or term the license may be valid. A secondary function of rights management is to enable a means to identify the origin of unauthorized copies of content to combat piracy.

Licensing authorization and control are implemented through the use of a Clearinghouse(s) entity and Secure Container (SC) technology. The Clearinghouse(s) provides licensing authorization by enabling intermediate or End-User(s) to unlock content after verification of a successful completion of a licensing transaction. Secure Containers are used to distribute encrypted content and information among the system components. A SC is a cryptographic carrier of information or content that uses encryption, digital signatures, and digital certificates to provide

protection against unauthorized interception or modification of electronic information and content. It also allows for the verification of the authenticity and integrity of the Digital Content. The advantage of these rights management functions is that the electronic Digital Content distribution infrastructure does not have to be secure or trusted. Therefore transmission over network infrastructures such as the Web and Internet. This is due to the fact that the Content is encrypted within Secure Containers and its storage and distribution are separate from the control of its unlocking and use. Only users who have decryption keys can unlock the encrypted Content, and the Clearinghouse(s) releases decryption keys only for authorized and appropriate usage requests. The Clearinghouse(s) will not clear bogus requests from unknown or unauthorized parties or requests that do not comply with the content's usage conditions as set by the content proprietors. In addition, if the SC is tampered with during its transmission, the software in the Clearinghouse(s) determines that the Content in a SC is corrupted or falsified and repudiate the transaction.

Thus, such passage discloses that a Downs clearinghouse acts in the manner of a license server by providing licensing authorization to enable intermediate or End-User(s) to unlock content after verification of a successful completion of a licensing transaction, and that such Downs clearinghouse operates based on verified requests from parties, which presumably include a Downs end user device 609. However, and significantly, such passage does not anywhere disclose or otherwise set forth that the end user device 609 includes a rendering application, or that such rendering application hosts a browser to allow a user thereat to interface with the Downs clearinghouse and causes the browser to navigate to the Downs clearinghouse, as is required by the claims of the single group. In fact, such passage does not even specify that the user of the Downs system should or could interface with the Downs clearinghouse, and instead suggests that contact with the Downs clearinghouse is done by the end user device 609



in a manner independent of the user and transparent thereto. Accordingly, Appellants respectfully submit that such passage does not disclose a rendering application hosting a browser to allow a user thereat to interface with a license server and causing the browser to navigate to the license server, or shutting down the hosted browser, as is required by the claims of the single group.

Likewise, column 66, lines 34-50 is reproduced as follows:

The End-User Device(s) 109 initiates the request for a Content SC(s) 630 by sending the License SC(s) 660 to the Content Hosting Site(s) 111. This is the same License SC(s) 660 returned by the Clearinghouse(s) 105. The Digital Signature of the License SC(s) 660 can be verified to determine if it is a valid License SC(s) 660. If it is a valid License SC(s) 660 either the download is initiated, or the download request may be redirected to another Content Hosting Site(s) 111.

2. Content Hosting Site(s) 111 provided by the Secure Digital Content Electronic Distribution System 100

For the Secure Digital Content Electronic Distribution System 100 the decision of which site should be used to download the Content 113 is made by the primary content site that received the initial request for a Content SC(s) 630. This site uses the following information to make this decision:

Thus, such passage discloses that an end-user device 109 can communicate with a content hosting site 111 and a clearinghouse 105 to obtain content based on an already-possessioned license. However, and significantly, such passage does not anywhere disclose or otherwise set forth that the end user device 109 includes a rendering application, or that such rendering application hosts a browser to allow a user thereat to interface with the content hosting site 111 or clearinghouse 105 and

causes the browser to navigate to such items, as is required by the claims of the single group. In fact, such passage does not even specify that the user of the Downs system should or could interface with such elements, and once again suggests that contact with such elements is done by the end user device 109 in a manner independent of the user and transparent thereto.

Moreover, such passage specifies that the content is obtained from the content hosting site 111 based on an already-obtained license, and therefore does not disclose navigating to a license server, as is required by claims 1 et seq., especially inasmuch as such license is already possessed. Accordingly, and again, Appellants respectfully submit that such passage does not disclose a rendering application hosting a browser to allow a user thereat to interface with a license server and causing the browser to navigate to the license server, or shutting down the hosted browser, as is required by the claims of the single group.

**2. The Examiner is impermissibly relying on an assertion of purported capabilities of the Downs system even though Downs does not in fact disclose that the Downs system has such capabilities.**

Again, in the Final Office Action, the Examiner asserts (somewhat ambiguously) that “the content host site 111 of Downs is *capable* of browsing or viewing context of the content data or application” (sic), and that “with the proper licensing authorization the user is *capable* of browsing or navigating” (emphasis added).

Firstly, Appellants respectfully submit that what the content host site 111 is capable of doing is immaterial to what a rendering application at the end user device 109 might be capable of doing. Quite simply, the content host site 111 and any rendering application at the end user device 109 are two separate and distinct structures.

Secondly, and more importantly, Appellants respectfully submit that section 102 of the Patent Statute is not concerned with what an element or person is 'capable' of performing or doing, but instead what a reference discloses the element or user as in fact actually performing or doing. Moreover, although the Patent Rules do allow for arguing that a claimed limitation is inherently present in a reference, it should be clear that the Appellant is not in fact arguing inherency, and also that such an inherency argument would fail inasmuch as each claimed is not necessarily present in the Downs system.

Thus, Appellants respectfully submit that it is immaterial what the content host site 111 of Downs might be 'capable' of performing, or what a user might be 'capable' of doing, and further submit that it is material only that Downs does not in fact disclose the content host site 111 or any other Downs element as having a rendering application that hosts a browser to allow a user thereat to interface with a license server, and that causes the browser to navigate to the license server, as is required by the claims of the single group.

Moreover, and at any rate, Appellants once again point out that Downs would not disclose the content host site 111 or any other Downs element as having a rendering application that hosts a browser to allow a user thereat to interface with a license server inasmuch as Downs is not at all concerned with incorporating a browser into the look, feel, interface, and experience of the rendering application such that the user is thus not disturbed or disoriented by the sudden appearance and disappearance of a strange and un-commanded browser, as is the case with the invention recited in the claims of the single group.

- 1. The disclosure within Downs of re-directing cannot be taken to represent the rendering application hosting the browser and shutting down same in the manner required by the claims of the single group, as the Examiner has argued.**

The Examiner appears to argue in the Final Office Action at pages 4 and 5 and with regard to claims 14 et seq. that because Downs discloses redirecting a request in the event that such request fails, such redirecting can be taken as (1) allowing a user to attempt to acquire the license from a license server by way of a browser hosted by the rendering application, in the manner of claim 1, and/or (2) shutting down a hosted browser upon receiving the license. However, Appellants respectfully submit that such argument is inappropriate in that section 102 of the Patent Statute is concerned with what a reference discloses, and not what might be inferred based on such disclosure.

Put more simply, section 102 requires an actual disclosure that a user can attempt to acquire the license from a license server by way of a browser hosted by the rendering application, in the manner of the claims of the single group, and/or shutting down a hosted browser upon receiving the license, as is also required by the claims of the single group. Conversely, section 102 does not allow a mere logical leap without any actual support from Downs. Thus, Appellants respectfully submit that the disclosure within Downs of redirecting cannot and does not be equated with (1) allowing a user to attempt to acquire the license from a license server by way of a browser hosted by the rendering application, in the manner of claim 1, and/or (2) shutting down a hosted browser upon receiving the license, as is required by the claims of the single group.

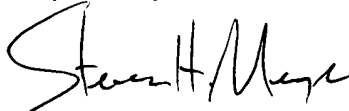
Moreover, and again, Downs would not disclose same inasmuch as Downs is not at all concerned with not disturbing or disorienting a user by the sudden appearance of any browser, or with incorporating the browser into the look, feel, interface, and experience of the rendering application such that the user is thus not disturbed or disoriented by the sudden appearance and disappearance of a strange and un-commanded browser, as is the case with the invention recited in the claims of the single group.

### **CONCLUSION**

In summary, Appellants respectfully submit that Downs does not anticipate the claims of the present application for the reason that such Downs reference does not disclose a rendering application that hosts a browser that is initiated by the rendering application, under the control of such rendering application, and viewed within the context of the rendering application, and causes the browser to navigate to a license server in order that a user may obtain a license therefrom, and also does not disclose that the rendering application shuts down the browser after the license has been obtained, as is required by the claims of the single group.

In view of the foregoing discussion, it is respectfully submitted that the Examiner's rejection of claims 1-3, 5-14, 16-20, 25-27, 29-38, 40-44, 49-51, 53-60, 62, 67, and 69-72 is improper and it is respectfully submitted that the rejection of such claims should be reversed by the Board.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Steven H. Meyer". The signature is fluid and cursive, with the first name "Steven" being more prominent.

Steven H. Meyer  
Registration No. 37,189

Date: May 17, 2005

WOODCOCK WASHBURN LLP  
One Liberty Place - 46<sup>th</sup> Floor  
Philadelphia, PA 19103  
(215) 568-3100

C:\NRPORTBL\WWMN01\GALLAGHE\410564\_1.DOC

APPENDIX

1. (Previously Presented) A method of acquiring a digital license that authorizes rendering of corresponding digital content, the license to be acquired upon a rendering application on a computing device requesting a digital rights management (DRM) system on the computing device for authorization for such rendering based on such license and upon the DRM system notifying the rendering application that such license is not available on the computing device, the method comprising:

hosting, by the rendering application, a browser that is initiated by the rendering application, under the control of such rendering application, and viewed within the context of the rendering application;

causing, by the rendering application, the browser to navigate to a license server;

allowing a user to communicate with the license server by way of the hosted browser to acquire the license;

receiving the license from the license server; and

shutting down, by the hosting rendering application, the hosted browser upon receiving the license.

2. (Original) The method of claim 1 comprising causing the browser to navigate to a license server based on information received by the rendering application from the DRM system.



3. (Original) The method of claim 1 comprising receiving information necessary to acquire the license including a site identifier identifying a license server and causing the browser to navigate to the license server based on the site identifier.

4. (Canceled)

5. (Original) The method of claim 1 comprising hosting a browser having pre-defined specifications, and receiving information from the license server designed in accordance with such specifications.

6. (Original) The method of claim 5 comprising hosting a browser having pre-defined view width and view height, and receiving information from the license server designed in accordance with such view width and view height.

7. (Original) The method of claim 1 comprising receiving the license from the license server directly to the DRM system.

8. (Original) The method of claim 1 further comprising storing the received license in a license store of the DRM system.

9. (Original) The method of claim 1 comprising shutting down the hosted browser upon a user actuation.

10. (Original) The method of claim 1 comprising shutting down the hosted browser upon receiving notification that the license has been received.

11. (Original) The method of claim 10 comprising shutting down the hosted browser upon receiving notification from the DRM system that the license has been received.

12. (Original) The method of claim 1 further comprising proceeding, by the rendering application, to render the content based on the received license.

13. (Original) A computer-readable medium having computer-executable instructions thereon for performing the method of claim 1.

14. (Previously Presented) A method of acquiring a digital license that authorizes rendering of corresponding digital content, the license to be acquired upon a rendering application on a computing device requesting a digital rights management (DRM) system on the computing device for authorization for such rendering based on such license, the method comprising:

attempting, by the DRM system, to silently acquire the license from a license server without the intervention of a user; and

if the attempt to silently acquire the license fails, allowing a user to attempt to acquire the license from a license server by way of a browser hosted by the rendering application by:

hosting, by the rendering application, a browser that is initiated by the rendering application, under the control of such rendering application, and viewed within the context of the rendering application;

causing, by the rendering application, the browser to navigate to a license server;

allowing a user to communicate with the license server by way of the hosted browser to acquire the license;

receiving the license from the license server; and  
shutting down, by the hosting rendering application, the hosted browser  
upon receiving the license.

15. (Canceled)

16. (Original) The method of claim 14 comprising:  
determining, by the DRM system, during the attempted silently license  
acquisition, that the DRM system does not have available thereto all information  
required by the license server; and  
allowing the user to attempt to acquire the license from a license server by  
way of a browser hosted by the rendering application.

17. (Original) The method of claim 14 comprising:  
determining, by the DRM system, during the attempted silently license  
acquisition, that the license server does not permit silent license acquisition; and  
allowing the user to attempt to acquire the license from a license server by  
way of a browser hosted by the rendering application.

18. (Original) The method of claim 14 comprising:  
determining that the user does not permit silent license acquisition; and  
allowing the user to attempt to acquire the license from a license server by  
way of a browser hosted by the rendering application.

19. (Original) The method of claim 14 comprising:  
attempting, by the DRM system, to silently acquire the license from a  
license server by way of a first site identifier therefor; and

if the attempt to silently acquire the license fails, allowing a user to attempt to acquire the license from a license server by way of a second identifier therefor different from the first identifier.

20. (Original) A computer-readable medium having computer-executable instructions thereon for performing the method of claim 14.

21. (Previously Presented) A method of acquiring a digital license that authorizes rendering of corresponding digital content, the license to be acquired upon a rendering application on a computing device requesting a digital rights management (DRM) system on the computing device for authorization for such rendering based on such license, the method comprising:

attempting, by the DRM system, to silently acquire the license from a license server without the intervention of a user;

receiving, by the rendering application from the DRM system, status information relating to the attempted license acquisition by the DRM system; and

displaying, by the rendering application, the received status information in a status display portion of the rendering application, and

, if the attempt to silently acquire the license fails, allowing a user to attempt to acquire the license from a license server by way of a browser hosted by the rendering application that is initiated by the rendering application, under the control of such rendering application, and viewed within the context of the rendering application.

22. (Canceled)

23. (Original) The method of claim 21 comprising displaying the received status information in the status display portion of the rendering application in at least one of a written and a pictorial form.

24. (Original) A computer-readable medium having computer-executable instructions thereon for performing the method of claim 21.

25. (Previously Presented) A computing device having operating thereon a rendering application for rendering digital content and a digital rights management (DRM) system for authorizing such rendering based on a corresponding digital license, the rendering application and the DRM system for effectuating acquisition of such license upon the rendering application requesting the DRM system for authorization for such rendering based on such license and upon the DRM system notifying the rendering application that such license is not available on the computing device, the rendering application hosting a browser that is initiated by the rendering application, under the control of such rendering application, and viewed within the context of the rendering application, and causing the browser to navigate to a license server to allow a user to communicate with the license server by way of the hosted browser to acquire the license, the rendering application shutting down the hosted browser upon receiving the license from the license server.

26. (Original) The computing device of claim 25 wherein the rendering application causes the browser to navigate to a license server based on information received by the rendering application from the DRM system.

27. (Original) The computing device of claim 25 wherein the rendering application receives information necessary to acquire the license including a

site identifier identifying a license server, and causes the browser to navigate to the license server based on the site identifier.

28. (Canceled)

29. (Original) The computing device of claim 25 wherein the rendering application hosts a browser having pre-defined specifications and receives information from the license server designed in accordance with such specifications.

30. (Original) The computing device of claim 29 wherein the rendering application hosts a browser having pre-defined view width and view height, and receives information from the license server designed in accordance with such view width and view height.

31. (Original) The computing device of claim 25 wherein the DRM system receives the license from the license server directly.

32. (Original) The computing device of claim 31 wherein the DRM system stores the received license in a license store of the DRM system.

33. (Original) The computing device of claim 25 wherein the rendering application shuts down the hosted browser upon a user actuation.

34. (Original) The computing device of claim 25 wherein the rendering application shuts down the hosted browser upon receiving notification that the license has been received.

35. (Original) The computing device of claim 34 wherein the rendering application shuts down the hosted browser upon receiving notification from the DRM system that the license has been received.

36. (Original) The computing device of claim 25 wherein the rendering application proceeds to render the content based on the received license.

37. (Original) A computer-readable medium having computer-executable instructions thereon for performing the method of claim 25.

38. (Previously Presented) A computing device having operating thereon a rendering application for rendering digital content and a digital rights management (DRM) system for authorizing such rendering based on a corresponding digital license, the rendering application and the DRM system for effectuating acquisition of such license upon the rendering application requesting the DRM system for authorization for such rendering based on such license and upon the DRM system determining that such license is not available on the computing device, the DRM system attempting to silently acquire the license from a license server without the intervention of a user, and, if the attempt to silently acquire the license fails, the rendering application hosting a browser and allowing a user to attempt to acquire the license from a license server by way of the hosted browser. the rendering application allows a user to attempt to acquire the license from a license server by hosting a browser that is initiated by the rendering application, under the control of such rendering application, and viewed within the context of the rendering application, causing the browser to navigate to a license server, allowing a user to communicate with the license server by way of the hosted browser to acquire the license, and shutting down the hosted browser upon receiving the license from the license server.

39. (Canceled)

40. (Original) The computing device of claim 38 wherein the DRM system determines during the attempted silently license acquisition that the DRM system does not have available thereto all information required by the license server; and the rendering application thereafter allows the user to attempt to acquire the license from a license server by way of a browser hosted by the rendering application.

41. (Original) The computing device of claim 38 wherein the DRM system determines during the attempted silently license acquisition that the license server does not permit silent license acquisition, and the rendering application thereafter allows the user to attempt to acquire the license from a license server by way of a browser hosted by the rendering application.

42. (Original) The computing device of claim 38 wherein the DRM system determines during the attempted silently license acquisition that the user does not permit silent license acquisition, and the rendering application thereafter allows the user to attempt to acquire the license from a license server by way of a browser hosted by the rendering application.

43. (Original) The computing device of claim 38 wherein the DRM system attempts to silently acquire the license from a license server by way of a first site identifier therefor, and if the attempt to silently acquire the license fails, the rendering application allows a user to attempt to acquire the license from a license server by way of a second identifier therefor different from the first identifier.



44. (Original) A computer-readable medium having computer-executable instructions thereon for performing the method of claim 38.

45. (Previously Presented) A computing device having operating thereon a rendering application for rendering digital content and a digital rights management (DRM) system for authorizing such rendering based on a corresponding digital license, the rendering application and the DRM system for effectuating acquisition of such license upon the rendering application requesting the DRM system for authorization for such rendering based on such license and upon the DRM system determining that such license is not available on the computing device, the DRM system attempting to silently acquire the license from a license server without the intervention of a user, the rendering application receiving from the DRM system status information relating to the attempted license acquisition by the DRM system and displaying the received status information in a status display portion of the rendering application, wherein if the attempt to silently acquire the license fails, the rendering application allows a user to attempt to acquire the license from a license server by way of a browser hosted by the rendering application that is initiated by the rendering application, under the control of such rendering application, and viewed within the context of the rendering application.

46. (Canceled)

47. (Original) The computing device of claim 45 wherein the rendering application displays the received status information in the status display portion of the rendering application in at least one of a written and a pictorial form.

48. (Original) A computer-readable medium having computer-executable instructions thereon for performing the method of claim 45.

49. (Previously Presented) A method for a rendering application on a computing device to effectuate acquiring a digital license that authorizes rendering of corresponding digital content, the license to be acquired upon the rendering application requesting a digital rights management (DRM) system on the computing device for authorization for such rendering based on such license and upon the DRM system notifying the rendering application that such license is not available on the computing device, the method comprising:

- hosting a browser that is initiated by the rendering application, under the control of such rendering application, and viewed within the context of the rendering application;

- causing the browser to navigate to a license server;

- allowing a user to communicate with the license server by way of the hosted browser to acquire the license; and

- shutting down, by the hosting rendering application, the hosted browser upon reception of the license from the license server.

50. (Original) The method of claim 49 comprising causing the browser to navigate to a license server based on information received by the rendering application from the DRM system.

51. (Original) The method of claim 49 comprising receiving information necessary to acquire the license including a site identifier identifying a license server and causing the browser to navigate to the license server based on the site identifier.

52. (Canceled)

53. (Original) The method of claim 49 comprising hosting a browser having pre-defined specifications, and receiving information from the license server designed in accordance with such specifications.

54. (Original) The method of claim 53 comprising hosting a browser having pre-defined view width and view height, and receiving information from the license server designed in accordance with such view width and view height.

55. (Original) The method of claim 49 comprising shutting down the hosted browser upon a user actuation.

56. (Original) The method of claim 49 comprising shutting down the hosted browser upon receiving notification that the license has been received.

57. (Original) The method of claim 56 comprising shutting down the hosted browser upon receiving notification from the DRM system that the license has been received.

58. (Original) The method of claim 49 further comprising proceeding to render the content based on the received license.

59. (Original) A computer-readable medium having computer-executable instructions thereon for performing the method of claim 49.

60. (Previously Presented) A method for a rendering application on a computing device to effectuate acquiring a digital license that authorizes rendering of corresponding digital content, the license to be acquired upon the rendering application requesting a digital rights management (DRM) system on the computing device for authorization for such rendering based on such license, the method comprising:

allowing the DRM system to attempt to silently acquire the license from a license server without the intervention of a user; and

if the attempt to silently acquire the license fails, allowing a user to attempt to acquire the license from a license server by way of a browser hosted by the rendering application by:

hosting a browser that is initiated by the rendering application, under the control of such rendering application, and viewed within the context of the rendering application;

causing the browser to navigate to a license server;

allowing a user to communicate with the license server by way of the hosted browser to acquire the license; and

shutting down the hosted browser upon reception of the license from the license server.

61. (Canceled)

62. (Original) A computer-readable medium having computer-executable instructions thereon for performing the method of claim 60.

63. (Previously Presented) A method for a rendering application on a computing device to effectuate acquiring a digital license that authorizes rendering of corresponding digital content, the license to be acquired upon the rendering application

requesting a digital rights management (DRM) system on the computing device for authorization for such rendering based on such license, the method comprising:

allowing the DRM system to attempt to silently acquire the license from a license server without the intervention of a user;

receiving from the DRM system status information relating to the attempted license acquisition by the DRM system; and

displaying the received status information in a status display portion of the rendering application, and

if the attempt to silently acquire the license fails, allowing a user to attempt to acquire the license from a license server by way of a browser hosted by the rendering application that is initiated by the rendering application, under the control of such rendering application, and viewed within the context of the rendering application.

64. (Canceled)

65. (Original) The method of claim 63 comprising displaying the received status information in the status display portion of the rendering application in at least one of a written and a pictorial form.

66. (Original) A computer-readable medium having computer-executable instructions thereon for performing the method of claim 63.

67. (Previously Presented) A computer-readable medium having computer-executable instructions thereon for performing a method of acquiring a digital license that authorizes rendering of corresponding digital content, the license to be acquired upon a rendering application on a computing device requesting a digital rights management (DRM) system on the computing device for authorization for such

rendering based on such license, the instructions being organized into modules comprising:

- a first module for attempting, by the DRM system, to silently acquire the license from a license server without the intervention of a user; and

- a second module for, if the attempt to silently acquire the license fails, allowing a user to attempt to acquire the license from a license server by way of a browser hosted by the rendering application by including:

- a first sub-module for hosting, by the rendering application, a browser that is initiated by the rendering application, under the control of such rendering application, and viewed within the context of the rendering application;

- a second sub-module for causing, by the rendering application, the browser to navigate to a license server;

- a third sub-module for allowing a user to communicate with the license server by way of the hosted browser to acquire the license;

- a fourth sub-module for receiving the license from the license server; and

- a fifth sub-module for shutting down, by the hosting rendering application, the hosted browser upon receiving the license.

68. (Canceled)

69. (Original) The medium of claim 67 comprising:

- a third module for determining, by the DRM system, during the attempted silently license acquisition, that the DRM system does not have available thereto all information required by the license server; and

- a fourth module for allowing the user to attempt to acquire the license from a license server by way of a browser hosted by the rendering application.

70. (Original) The medium of claim 67 comprising:  
a third module for determining, by the DRM system, during the attempted silently license acquisition, that the license server does not permit silent license acquisition; and  
a fourth module for allowing the user to attempt to acquire the license from a license server by way of a browser hosted by the rendering application.

71. (Original) The medium of claim 67 comprising:  
a third module for determining that the user does not permit silent license acquisition; and  
a fourth module for allowing the user to attempt to acquire the license from a license server by way of a browser hosted by the rendering application.

72. (Original) The medium of claim 67 comprising:  
a first module for attempting, by the DRM system, to silently acquire the license from a license server by way of a first site identifier therefor; and  
a second module for, if the attempt to silently acquire the license fails, allowing a user to attempt to acquire the license from a license server by way of a second identifier therefor different from the first identifier.